

**COMMON COUNCIL OF THE CITY OF ALBANY**  
**SUPPORT LEGISLATION**  
**SEPTEMBER 9, 2021**

**ORDINANCES**

- 25.91.21**            **AN ORDINANCE AMENDING CHAPTER 375 OF THE CODE OF THE CITY OF ALBANY (UNIFIED SUSTAINABLE DEVELOPMENT ORDINANCE) CHANGING THE ZONING CLASSIFICATIONS OF 77, 79, 81, 83, 83.5, AND 85 SHERMAN STREET FROM “TWO FAMILY” (R-2) TO “MIXED-USE COMMUNITY URBAN” (MU-CU) AND AMENDING THE ZONING MAP ACCORDINGLY**
- 26.91.21**            **AN ORDINANCE AUTHORIZING THE SALE TO ROCIO VILLA OF THE CITY-OWNED PROPERTY LOCATED AT 142 LIVINGSTON AVENUE (Tax Map Parcel Number 65.74-4-13)**
- 27.91.21**            **AN ORDINANCE AUTHORIZING THE SALE TO KIM CHAMPION OF THE CITY-OWNED PROPERTY AT 59 FIRST STREET (Tax Map Parcel Number 65.82-1-64)**

**RESOLUTIONS**

- 73.91.21R**           **A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF ALBANY SUPPORTING THE CLEAN SLATE ACT**

**Council Member Love introduced the following:**

**ORDINANCE 25.91.21**

**AN ORDINANCE AMENDING CHAPTER 375 OF THE CODE OF THE CITY OF ALBANY (UNIFIED SUSTAINABLE DEVELOPMENT ORDINANCE) CHANGING THE ZONING CLASSIFICATIONS OF 77, 79, 81, 83, 83.5, AND 85 SHERMAN STREET FROM “TWO-FAMILY” (R-2) TO “MIXED-USE COMMUNITY URBAN” (MU-CU) AND AMENDING THE ZONING MAP ACCORDINGLY**

*The City of Albany, in Common Council convened, does hereby ordain and enact:*

**Section 1.** Chapter 375 of the Code of the City of Albany (Unified Sustainable Development Ordinance) and the Official Zoning Map are hereby amended to change the zoning classifications of 77, 79, 81, 83, 83.5, and 85 Sherman Street from Two-Family (R-2) to Mixed-Use Community Urban (MU-CU), said properties being more particularly described as follows:

All those parcels of land situated in the City of Albany, County of Albany and State of New York, identified on the tax map as follows:

Parcel 1  
Section: 65  
Block: 72  
Lot: 3  
Sub Lot: 37

Said premises more commonly known as 77 Sherman Street measuring approximately 29.6’ by 70’.

Parcel 2  
Section: 65  
Block: 72  
Lot: 3  
Sub Lot: 38

Said premises more commonly known as 79 Sherman Street measuring approximately 28.6’ by 70’.

Parcel 3  
Section: 65  
Block: 72  
Lot: 3  
Sub Lot: 39

Said premises more commonly known as 81 Sherman Street measuring approximately 21.85’ by 70’

Parcel 4  
Section: 65  
Block: 72  
Lot: 3  
Sub Lot: 40

Said premises more commonly known as 83 Sherman Street measuring approximately 18.86' by 70'

Parcel 5  
Section: 65  
Block: 72  
Lot: 3  
Sub Lot: 41

Said premises more commonly known as 83.5 Sherman Street measuring approximately 19.28' by 70'

Parcel 6  
Section: 65  
Block: 72  
Lot: 3  
Sub Lot: 42

Said premises more commonly known as 85 Sherman Street measuring approximately 29.32' by 70'

**Section 2.** This ordinance shall take effect immediately.

**APPROVED AS TO FORM THIS  
24<sup>TH</sup> DAY OF AUGUST, 2021**

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**Corporation Counsel**

**TO:** Danielle Gillespie, City Clerk

**FROM:** John-Raphael Pichardo, Esq., Research Counsel  
Zach Powell, Senior Planner, AICP

**RE:** COMMON COUNCIL SUPPORTING MEMORANDUM

**DATE:** August 24, 2021

**SPONSOR:** Council Member Love

**Ordinance 25.91.21**

**TITLE**

AN ORDINANCE AMENDING CHAPTER 375 OF THE CODE OF THE CITY OF ALBANY (UNIFIED SUSTAINABLE DEVELOPMENT ORDINANCE) CHANGING THE ZONING CLASSIFICATIONS OF 77, 79, 81, 83, 83.5, AND 85 SHERMAN STREET FROM “TWO-FAMILY” (R-2) TO “MIXED-USE COMMUNITY URBAN” (MU-CU) AND AMENDING THE ZONING MAP ACCORDINGLY

**GENERAL PURPOSE OF LEGISLATION**

The proposed zoning map amendment is necessary to allow the Legal Aid Society of Northeastern New York to construct adequate parking for its staff and low income clients at the Center for Civil Legal Services, 95 Central Avenue. Legal Aid provides free urgent civil legal services to low income and vulnerable clients. Effective mid-June, the staff at the Center will total 51 people and there are currently only 28 spaces.

**NECESSITY FOR LEGISLATION AND CHANGES TO EXISTING LAW:**

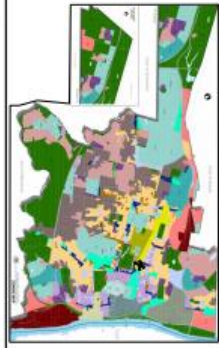
Legal Aid Society of Northeastern New York currently has a total of 28 spaces (16 located directly behind the building and 12 across Sherman Street. Legal Aid Society of Northeastern New York has acquired lots 85, 79, 77, 73, 71, and 69 Sherman Street to create one continuous parking lot on the opposite side of Sherman Street. The proposed parking lot will create 44 parking spaces. With the closure of Legal Aid Society’s rental space in mid-town, a total of 15 more employees will be returning to the office as soon as possible. Current plans call for return by mid-June; if adequate parking is not available, staff would be forced to work from home during construction.

**TIME FRAME FOR PASSAGE:**

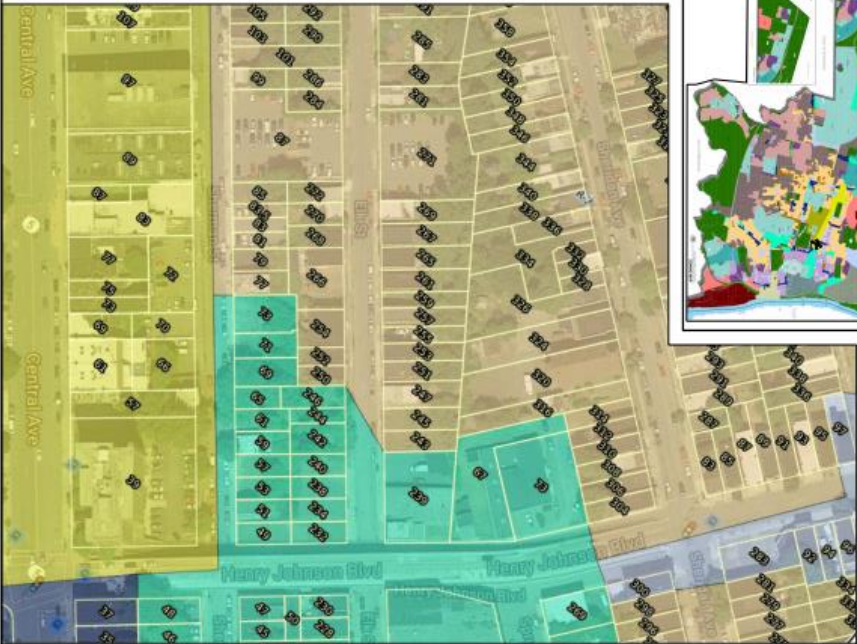
As soon as possible.

**FISCAL IMPACTS:**

None.



**MAP A  
EXISTING ZONING**



**MAP B  
PROPOSED ZONING**



- R-2 Residential, Two-Family
- MU-CU Mixed-Use, Community Urban
- MU-FC Mixed-Use, Form-Based Central Ave
- MU-NE Mixed-Use, Neighborhood Edge
- MU-NC Mixed-Use, Neighborhood Center

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2400 STATE ROUTE 9, SUITE 301  
MALTA, NY 12040  
(518) 899-5243

**LEGAL AID SOCIETY PARKING EXPANSION**  
SHERMAN STREET, CITY OF ALBANY, ALBANY COUNTY, NEW YORK

**PROPOSED ZONING CHANGE**

PROJ. NO: 890.00 **RZM-1**  
SCALE: 1" = 200'  
DATE: 5/5/21 SHEET OF 1

**Council Member Love introduced the following:**

**ORDINANCE 26.91.21**

**AN ORDINANCE AUTHORIZING THE SALE TO ROCIO VILLA OF THE CITY-OWNED PROPERTY LOCATED AT 142 LIVINGSTON AVENUE (Tax Map Parcel Number 65.74-4-13)**

*The City of Albany, in Common Council convened, does hereby ordain and enact:*

**Section 1.** It is hereby ordered and directed that all the right, title and interest of the City of Albany in and to the vacant, 0.05± acre parcel at 142 Livingston Avenue (tax map parcel number 65.74-4-13) be sold at private sale, pursuant to the provisions of Local Law No. 4 of 1984, to Rocio Villa,

**SUBJECT** to all easements, restrictions, and rights of way of record.

**Section 2.** It is hereby determined that the aforesaid property has been abandoned for municipal or public purposes.

**Section 3.** The form, content, terms, and conditions of such conveyance shall be approved by the Corporation Counsel and shall be subject to the approval of the Board of Estimate and Apportionment, and if approved by said Board, the Mayor is hereby authorized and directed to execute a proper deed of conveyance for valuable consideration.

**Section 4.** This ordinance shall take effect immediately.

**APPROVED AS TO FORM THIS  
26<sup>TH</sup> DAY OF AUGUST, 2021**

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**Corporation Counsel**

**To: Danielle Gillespie, City Clerk**

**From: Brett Williams, Esq., Sr. Assistant Corporation Counsel**

**Re: Request for Common Council Legislation  
Supporting Memorandum**

**Date: August 26, 2021**

**SPONSOR Council Member Love**

**ORDINANCE 26.91.21**

**TITLE**

**AN ORDINANCE AUTHORIZING THE SALE TO ROCIO VILLA OF THE CITY-OWNED PROPERTY LOCATED AT 142 LIVINGSTON AVENUE (Tax Map Parcel Number 65.74-4-13)**

**GENERAL PURPOSE OF LEGISLATION**

Rocio Villa, who owns and resides at 23 North Swan Street, wishes to purchase this vacant parcel, which abuts the rear of her existing property, to use as parking. Ms. Rocio has informed us that “our family currently parking our vehicles on North Swan St. and Livingston. We were victims of several accidents on Swan St. due to the high traffic and parking issues in the area.” Ms. Rocio added that she wants to “keep the lot clean and secure to improve the area.”

The TRC expressed no concerns that would prevent the sale of this property.

**NECESSITY FOR LEGISLATION AND CHANGES TO EXISTING LAW**

The sale of City-owned property requires Common Council approval.

**FISCAL IMPACT(S)**

The property is assessed for \$1,500 and will be sold for that amount.

**Council Member Love introduced the following:**

**ORDINANCE 27.91.21**

**AN ORDINANCE AUTHORIZING THE SALE TO KIM CHAMPION OF THE CITY-OWNED PROPERTY LOCATED AT 59 FIRST STREET (Tax Map Parcel Number 65.82-1-64)**

*The City of Albany, in Common Council convened, does hereby ordain and enact:*

**Section 1.** It is hereby ordered and directed that all the right, title and interest of the City of Albany in and to the vacant, 0.08± acre parcel at 59 First Street (tax map parcel number 65.82-1-64) be sold at private sale, pursuant to the provisions of Local Law No. 4 of 1984, to Kim Champion,

**SUBJECT** to all easements, restrictions, and rights of way of record.

**Section 2.** It is hereby determined that the aforesaid property has been abandoned for municipal or public purposes.

**Section 3.** The form, content, terms, and conditions of such conveyance shall be approved by the Corporation Counsel and shall be subject to the approval of the Board of Estimate and Apportionment, and if approved by said Board, the Mayor is hereby authorized and directed to execute a proper deed of conveyance for valuable consideration.

**Section 4.** This ordinance shall take effect immediately.

**APPROVED AS TO FORM THIS  
26<sup>TH</sup> DAY OF AUGUST, 2021**

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**Corporation Counsel**



**To:** Danielle Gillespie, City Clerk

**From:** Brett Williams, Esq., Sr. Assistant Corporation Counsel

**Re:** Request for Common Council Legislation  
Supporting Memorandum

**Date:** August 26, 2021

**SPONSOR** Council Member Love

**ORDINANCE 27.91.21**

**TITLE**

**AN ORDINANCE AUTHORIZING THE SALE TO KIM CHAMPION OF THE CITY-OWNED PROPERTY LOCATED AT 59 FIRST STREET (Tax Map Parcel Number 65.82-1-64)**

**GENERAL PURPOSE OF LEGISLATION**

Kim Champion, who also owns 6 Cuyler Street, 139 4<sup>th</sup> Avenue, 77 Elizabeth Street, 41 Judson Street, and 57 and 61 First Street wishes to purchase 59 First Street to “utilize the space for gardening.”

The TRC expressed no concerns that would prevent the sale of this property.

**NECESSITY FOR LEGISLATION AND CHANGES TO EXISTING LAW**

The sale of City-owned property requires Common Council approval.

**FISCAL IMPACT(S)**

The property is assessed for \$2,300 and will be sold for that amount.

**Council Members Anane and Johnson introduced the following:**

**RESOLUTION NUMBER 73.91.21R**

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF ALBANY  
SUPPORTING THE CLEAN SLATE ACT**

**WHEREAS**, it is estimated that 2.3 million people in New York State have criminal conviction records; and

**WHEREAS**, people with criminal conviction records face thousands of civil barriers to employment, licensing, housing and educational opportunities long after they have completed their sentences; and

**WHEREAS**, racial disparities and socio-economic discrimination are rampant throughout the criminal legal system, and statistics and anecdotal evidence show that convictions for even low-level offenses result in cyclical harm and structural instability for individuals, families and communities; and

**WHEREAS**, excluding individuals with criminal records from full participation in society through a system of perpetual punishment creates intergenerational trauma and exacerbates racial and economic inequality; and

**WHEREAS**, Black and Latinx New Yorkers are far more likely to be stopped, arrested, prosecuted, convicted and incarcerated by the criminal legal system than white New Yorkers; and

**WHEREAS**, people of color are far more likely to be discriminated against based on a conviction record; and

**WHEREAS**, it has been estimated that people who have been to prison lose an average of \$484,400 in earnings over their lifetime; and

**WHEREAS**, it has been estimated that excluding individuals with conviction histories from the workforce costs the economy between \$78 billion and \$87 billion in lost gross domestic product; and

**WHEREAS**, approximately 95% of incarcerated people return to their communities after serving their sentences; and

**WHEREAS**, giving people access to jobs, housing, education and licenses to practice a trade increases their participation in the economy and reduces the likelihood they will return to prison, thereby making our communities safer; and

**WHEREAS**, only approximately 2,500 of an estimated 600,000 eligible people — or less than 0.5% — have had their records sealed since New York’s current application-based sealing law went into effect in 2017; and

**WHEREAS**, A system of automatic sealing and expungement of criminal records is essential to provide relief to those who need it most; and

**WHEREAS**, the “Clean Slate Act” (S1553B/A6399A), sponsored by Senator Zellnor Myrie and Assembly Member Catalina Cruz, would require that most criminal records be sealed automatically after a specified period of time; and

**WHEREAS**, the Clean Slate Act would remove systemic barriers to stable housing, employment and education and allow millions of New Yorkers to participate fully in civic life and in their communities; and

**WHEREAS**, numerous other states, including Pennsylvania, Michigan, Utah and Connecticut, have already passed “Clean Slate” legislation.

**NOW, THEREFORE BE IT RESOLVED**, that the Common Council of the City of Albany calls on the New York State Legislature to pass, and the Governor to sign, the Clean Slate Act.

**To:** Danielle Gillespie, City Clerk

**From:** John-Raphael Pichardo, Esq., Research Counsel

**Re:** Request for Common Council Legislation  
Supporting Memorandum

**Date:** August 25, 2021

**Sponsors:** Council Members Anane & Johnson

**RESOLUTION NUMBER 73.91.21R**

**TITLE**

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF ALBANY SUPPORTING  
THE CLEAN SLATE ACT

**GENERAL PURPOSE OF LEGISLATION**

Supporting the passage of the Clean Slate Act

**FISCAL IMPACT(S)**

None.

# STATE OF NEW YORK

1553--B

2021-2022 Regular Sessions

## IN SENATE

January 13, 2021

Introduced by Sens. MYRIE, BAILEY, BENJAMIN, BIAGGI, BRISPORT, BROUK, COMRIE, COONEY, GIANARIS, HINCHEY, HOYLMAN, JACKSON, KAVANAGH, MAY, RAMOS, RIVERA, SALAZAR, SEPULVEDA, SERRANO -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the criminal procedure law, the executive law and the correction law, in relation to automatic sealing of certain convictions

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

- 1 Section 1. The criminal procedure law is amended by adding a new  
2 section 160.57 to read as follows:  
3 § 160.57 Automatic sealing of convictions.  
4 1. Convictions for certain traffic infractions and violations or any  
5 crime defined in the laws of this state shall be sealed in accordance  
6 with paragraph (c) of this subdivision as follows:  
7 (a) Convictions for subdivision one of section eleven hundred ninety-  
8 two of the vehicle and traffic law shall be sealed after three years.  
9 (b) Criminal convictions for misdemeanors and felonies shall be sealed  
10 upon satisfaction of the following conditions:  
11 (i) at least three years have passed from the imposition of sentence  
12 on the defendant's most recent misdemeanor conviction in this state and  
13 at least seven years have passed since the imposition of sentence on the  
14 defendant's most recent felony conviction in this state;  
15 (ii) the defendant does not have a criminal charge pending in this  
16 state;

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets  
[-] is old law to be omitted.

LBD07615-07-1

1 (iii) the defendant is not currently under the supervision of any  
2 probation or parole department for the eligible conviction; and  
3 (iv) the conviction is not defined as a sex offense under section one  
4 hundred sixty-eight-a of the correction law.  
5 (c) Where a conviction is eligible for sealing pursuant to this para-  
6 graph before, on, or after the effective date of this section, the divi-  
7 sion of criminal justice services shall immediately notify the office of  
8 court administration, the court of conviction, and the heads of all  
9 appropriate police and sheriff departments that the conviction is  
10 sealed.  
11 (d) Records of convictions sealed pursuant to this paragraph shall not  
12 be accessed, made available to any person or public or private agency,  
13 or used by any state agency covered by subdivision three of this section  
14 except for:  
15 (i) the defendant and such defendant's attorney;  
16 (ii) any court or prosecutor for the purposes of a pending criminal  
17 action;  
18 (iii) qualified agencies, as defined in subdivision nine of section  
19 eight hundred thirty-five of the executive law, and federal and state  
20 law enforcement agencies, when acting within the scope of their law  
21 enforcement duties;  
22 (iv) the court, prosecutor, and defense counsel if the defendant  
23 becomes a witness in a criminal proceeding, or the claimant and respond-  
24 ent if the defendant becomes a witness in a civil proceeding;  
25 (v) when an individual is a defendant in a criminal action and the  
26 sealed records of conviction of a third-party are integral to their  
27 defense. In such instances, use of sealed records shall be requested  
28 upon ex parte motion in any superior court, or in any district court,  
29 city court or the criminal court of the city of New York provided that  
30 such court is where the action is pending. The applicant must demon-  
31 strate to the satisfaction of the court that the records will be used  
32 for the purpose of this subparagraph;  
33 (vi) entities that are required by state or federal law to request a  
34 fingerprint-based check of criminal history information, provided,  
35 however, that every person whose information is retrieved pursuant to  
36 this paragraph shall be furnished with a copy of such information and  
37 afforded an opportunity to explain or contest the information to the  
38 entity;  
39 (vii) any prospective employer of a police officer or peace officer as  
40 those terms are defined in subdivisions thirty-three and thirty-four of  
41 section 1.20 of this chapter, in relation to an application for employ-  
42 ment as a police officer, provided, however, that every person who is an  
43 applicant shall be furnished with a copy of all records obtained under  
44 this paragraph and afforded an opportunity to make an explanation there-  
45 to;  
46 (viii) any federal, state or local officer or agency with responsibil-  
47 ity for the issuance of licenses to possess a firearm, rifle or shotgun  
48 or with responsibility for conducting background checks before transfer  
49 or sale of a firearm or explosive, when the officer or agency is acting  
50 pursuant to such responsibility. This includes the criminal justice  
51 information services division of the federal bureau of investigation,  
52 for the purposes of responding to queries to the national instant back-  
53 ground check system regarding attempts to purchase or otherwise take  
54 possession of firearms, rifles or shotguns, as defined in 18 U.S.C. §  
55 921 (A) (3);

1 (ix) for the purposes of civilian investigation or evaluation of a  
2 civilian complaint or civil action concerning law enforcement or prose-  
3 cution actions, upon ex parte motion in any superior court, or in any  
4 district court, city court or the criminal court of the city of New York  
5 provided that such court sealed the record; the applicant must demon-  
6 strate to the satisfaction of the court that the records will be used  
7 for the purposes of this subparagraph; and

8 (x) for information provided to an individual or entity pursuant to  
9 paragraph (e) of subdivision four of section eight hundred thirty-seven  
10 of the executive law or for bona fide research purposes provided all  
11 identifying information is removed.

12 (e) Where the sealing required by this paragraph has not taken place,  
13 or where supporting court records cannot be located or have been  
14 destroyed, and a defendant or their attorney submits notification of  
15 such fact to the division of criminal justice services, as prescribed in  
16 subdivision twenty-three of section eight hundred thirty-seven of the  
17 executive law, within thirty days of such notice to the division, the  
18 conviction shall be sealed as set forth in this subdivision.

19 2. In calculating the time periods under this section, any period of  
20 time during which the defendant was incarcerated shall be excluded and  
21 such time period shall be extended by a period equal to the time served  
22 under such incarceration.

23 3. Where a conviction is eligible for sealing pursuant to this section  
24 before, on, or after the effective date of this section, the commission-  
25 er of the division of criminal justice services shall immediately notify  
26 the office of court administration, the court of conviction and the  
27 heads of all appropriate police departments, prosecutors' offices and  
28 law enforcement agencies that the conviction is sealed. Upon receipt of  
29 such notification, records of or relating to such conviction shall be  
30 immediately sealed.

31 (a) Any state agency that possesses information, records, documents or  
32 papers related to the eligible conviction shall seal them as follows:

33 (i) Every photograph of such defendant and photographic plates or  
34 proof, and all palmprints, fingerprints and retina scans taken or made  
35 of such individual pursuant to the provisions of this article in regard  
36 to the eligible conviction, and all duplicates, reproductions, and  
37 copies thereof, except a digital fingerprint that is on file with the  
38 division of criminal justice services for a conviction that has not been  
39 sealed pursuant to this section or section 160.50 of this article, shall  
40 forthwith be destroyed by the division of criminal justice services and  
41 by any police department, prosecutor's office or law enforcement agency  
42 having any such photograph, photographic plate or proof, palmprint,  
43 fingerprints or retina scan in its possession or under its control.  
44 Where fingerprints subject to the provisions of this section have been  
45 received by the division of criminal justice services and have been  
46 filed by the division as digital images, such images may be retained,  
47 provided that a fingerprint card of the individual is on file with the  
48 division which was not destroyed pursuant to this section.

49 (ii) Every official record and paper and duplicates and copies there-  
50 of, including, but not limited to, judgments and orders of a court but  
51 not including published court decisions or opinions or records and  
52 briefs on appeal, relating to the conviction, on file with the agency  
53 shall be marked as sealed by conspicuously indicating on the face of the  
54 record or at the beginning of the digitized file of the record that the  
55 record has been designated as sealed.



1 (b) Third-party agencies shall seal information and all records, docu-  
2 ments and papers relating to the eligible conviction as follows:

3 (i) Every police department, prosecutor's office or law enforcement  
4 agency, including the division of criminal justice services, which tran-  
5 smitted or otherwise forwarded to any agency of the United States or of  
6 any other state or jurisdiction outside of this state copies of any such  
7 photographs, photographic plates or proofs, palmprints, fingerprints or  
8 retina scans, shall forthwith formally inform such agency in writing  
9 that the matter has been sealed and request in writing that all such  
10 copies be destroyed.

11 (ii) Every official record and paper and duplicates and copies there-  
12 of, including, but not limited to, judgments and orders of a court but  
13 not including published court decisions or opinions or records and  
14 briefs on appeal, relating to the conviction, on file with the agency  
15 shall be marked as sealed by conspicuously indicating on the face of the  
16 record or at the beginning of the digitized file of the record that the  
17 record has been designated as sealed.

18 4. (a) Nothing in this section requires the destruction of DNA infor-  
19 mation maintained in the New York state DNA database of such individual  
20 pursuant to the provisions of the executive law in regard to the eligi-  
21 ble conviction.

22 (b) Nothing in this section requires the sealing or destruction of  
23 records maintained by the department of motor vehicles, and nothing in  
24 this section shall be construed to contravene the vehicle and traffic  
25 law, the federal driver's privacy protection act (18 U.S.C 2721 et.  
26 seq.), or the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C.  
27 31311).

28 (c) The division of criminal justice services is authorized to  
29 disclose a conviction that is sealed pursuant to this section to enti-  
30 ties that are required by federal law, or by rules and regulations  
31 promulgated by a self-regulatory organization created under federal law,  
32 to consider sealed convictions. Such entities must certify to the divi-  
33 sion that they are required by federal law, or by rules and regulations  
34 promulgated by a self-regulatory organization that has been created  
35 under federal law, to make an inquiry about or consider records sealed  
36 pursuant to this section for purposes of employment, licensing, or  
37 clearance. To the extent permitted by federal law, a record sealed  
38 pursuant to this section may not be considered a conviction that would  
39 prohibit the employment, licensing or clearance of the defendant.

40 (d) Nothing in this section shall prohibit entities required by feder-  
41 al law, or by rules and regulations promulgated by a self-regulatory  
42 organization that has been created under federal law, from making an  
43 inquiry about or considering an applicant's criminal history for  
44 purposes of employment, licensing, or clearance from inquiring into  
45 convictions sealed pursuant to this section.

46 (e) In any civil action, an official record of a conviction that has  
47 been sealed pursuant to this section may not be introduced as evidence  
48 of negligence against a person or entity that provided employment,  
49 contract labor or services, volunteer work, licensing, tenancy, a home  
50 purchase, a mortgage, an education, a loan, or insurance if such record  
51 was sealed and was not provided to the person or entity by or on behalf  
52 of a governmental entity in accordance with this section in response to  
53 such person's or entity's authorized and timely request for conviction  
54 history information.



1 (f) A person or entity described in this subdivision, acting reason-  
2 ably and in good faith, may not have a duty to investigate the fact of a  
3 prior conviction that has been sealed pursuant to this section.

4 5. No defendant shall be required or permitted to waive eligibility  
5 for sealing pursuant to this section as part of a plea of guilty,  
6 sentence or any agreement related to a conviction for a violation of the  
7 laws of this state. Any such waiver is void and unenforceable.

8 6. Sealing as set forth in subdivision three of this section is with-  
9 out prejudice to a defendant or their attorney seeking further relief  
10 pursuant to section 440.10 of this chapter. Nothing in this section  
11 shall diminish or abrogate any rights or remedies otherwise available to  
12 the defendant.

13 7. All records for a conviction subject to sealing under this section  
14 where the conviction was entered on or before the effective date of this  
15 section shall receive the appropriate relief promptly and, in any event,  
16 no later than two years after such effective date.

17 8. A conviction which is sealed pursuant to this section is included  
18 within the definition of a conviction for the purposes of any criminal  
19 proceeding in which the fact of a prior conviction would enhance a  
20 penalty or is an element of the offense charged.

21 9. Any defendant claiming to be aggrieved by a violation of this  
22 section shall have a cause of action in any court of appropriate juris-  
23 isdiction for damages, including punitive damages, and such other remedies  
24 as may be appropriate. The provisions of this article shall also be  
25 enforceable by the division of human rights pursuant to the powers and  
26 procedures set forth in article fifteen of the executive law.

27 § 2. Subdivision 3 of section 845-d of the executive law, as added by  
28 section 1 of subpart N of part II of chapter 55 of the laws of 2019, is  
29 amended to read as follows:

30 3. Nothing in this section shall authorize the division to provide  
31 criminal history information that is not otherwise authorized by law or  
32 that is sealed pursuant to section 160.50, 160.55, 160.57, 160.58 or  
33 160.59 of the criminal procedure law.

34 § 3. Section 837 of the executive law is amended by adding a new  
35 subdivision 23 to read as follows:

36 23. Promulgate a standardized form for use by individuals to notify  
37 the division of criminal justice services of convictions subject to  
38 sealing under section 160.57 of the criminal procedure law, but for  
39 which the division has not taken the requisite action for related  
40 records.

41 § 4. Subdivision 16 of section 296 of the executive law, as amended by  
42 section 2 of subpart O of part II of chapter 55 of the laws of 2019, is  
43 amended to read as follows:

44 16. It shall be an unlawful discriminatory practice, unless specif-  
45 ically required or permitted by statute, for any person, agency, bureau,  
46 corporation or association, including the state and any political subdivi-  
47 sion thereof, to make any inquiry about, whether in any form of appli-  
48 cation or otherwise, or to act upon adversely to the individual  
49 involved, any arrest or criminal accusation of such individual not then  
50 pending against that individual which was followed by a termination of  
51 that criminal action or proceeding in favor of such individual, as  
52 defined in subdivision two of section 160.50 of the criminal procedure  
53 law, or by an order adjourning the criminal action in contemplation of  
54 dismissal, pursuant to section 170.55, 170.56, 210.46, 210.47, or 215.10  
55 of the criminal procedure law, or by a youthful offender adjudication,  
56 as defined in subdivision one of section 720.35 of the criminal proce-

1 dure law, or by a conviction for a violation sealed pursuant to section  
2 160.55 of the criminal procedure law or by a conviction which is sealed  
3 pursuant to section 160.59 or 160.58 of the criminal procedure law, or  
4 by a conviction which is sealed pursuant to section 160.57 of the crimi-  
5 nal procedure law, in connection with the licensing, housing, employ-  
6 ment, including volunteer positions, or providing of credit or insurance  
7 to such individual; provided, further, that no person shall be required  
8 to divulge information pertaining to any arrest or criminal accusation  
9 of such individual not then pending against that individual which was  
10 followed by a termination of that criminal action or proceeding in favor  
11 of such individual, as defined in subdivision two of section 160.50 of  
12 the criminal procedure law, or by an order adjourning the criminal  
13 action in contemplation of dismissal, pursuant to section 170.55 or  
14 170.56, 210.46, 210.47 or 215.10 of the criminal procedure law, or by a  
15 youthful offender adjudication, as defined in subdivision one of section  
16 720.35 of the criminal procedure law, or by a conviction for a violation  
17 sealed pursuant to section 160.55 of the criminal procedure law, or by a  
18 conviction which is sealed pursuant to section 160.58 or 160.59 of the  
19 criminal procedure law, or by a conviction which is sealed pursuant to  
20 section 160.57 of the criminal procedure law. An individual required or  
21 requested to provide information in violation of this subdivision may  
22 respond as if the arrest, criminal accusation, or disposition of such  
23 arrest or criminal accusation did not occur. The provisions of this  
24 subdivision shall not apply to the licensing activities of governmental  
25 bodies in relation to the regulation of guns, firearms and other deadly  
26 weapons or in relation to an application for employment as a police  
27 officer or peace officer as those terms are defined in subdivisions  
28 thirty-three and thirty-four of section 1.20 of the criminal procedure  
29 law; provided further that the provisions of this subdivision shall not  
30 apply to an application for employment or membership in any law enforce-  
31 ment agency with respect to any arrest or criminal accusation which was  
32 followed by a youthful offender adjudication, as defined in subdivision  
33 one of section 720.35 of the criminal procedure law, or by a conviction  
34 for a violation sealed pursuant to section 160.55 of the criminal proce-  
35 dure law, or by a conviction which is sealed pursuant to section 160.58  
36 or 160.59 of the criminal procedure law, or by a conviction which is  
37 sealed pursuant to section 160.57 of the criminal procedure law. For  
38 purposes of this subdivision, an action which has been adjourned in  
39 contemplation of dismissal, pursuant to section 170.55 or 170.56,  
40 210.46, 210.47 or 215.10 of the criminal procedure law, shall not be  
41 considered a pending action, unless the order to adjourn in contem-  
42 plation of dismissal is revoked and the case is restored to the calendar  
43 for further prosecution.

44 § 5. Section 9 of the correction law, as added by section 2 of part 00  
45 of chapter 56 of the laws of 2010, is amended to read as follows:

46 § 9. Access to inmate information via the internet. Notwithstanding  
47 any provision of law to the contrary, any information relating to the  
48 conviction of a person[~~, except for a person convicted of an offense~~  
49 ~~that would make such person ineligible for merit time under section~~  
50 ~~eight hundred three of this chapter or an offense for which registration~~  
51 ~~as a sex offender is required as set forth in subdivision two or three~~  
52 ~~of section one hundred sixty-eight-a of this chapter,~~] that is posted on  
53 a website maintained by or for the department, under article six of the  
54 public officers law, may be posted on such website for a period not to  
55 exceed [~~five~~] three years after the expiration of such person's sentence  
56 of imprisonment and at the conclusion of any period of parole or post-

1 release supervision[; provided, however, that in the case of a person  
2 ~~who has been committed to the department on more than one occasion, the~~  
3 ~~department may post conviction information relating to any prior commit-~~  
4 ~~ment on such website for a period not to exceed five years after the~~  
5 ~~expiration of such person's sentence of imprisonment and any period of~~  
6 ~~parole or post-release supervision arising from the most recent commit-~~  
7 ~~ment to the department].~~  
8 § 6. Severability. If any provision of this act or the application  
9 thereof to any person, corporation or circumstances is held invalid,  
10 such invalidity shall not affect other provisions or applications of the  
11 act which can be given effect without the invalid provision or applica-  
12 tion, and to this end the provisions of this act are declared to be  
13 severable.  
14 § 7. This act shall take effect on the one hundred twentieth day after  
15 it shall have become a law.

S1553B (ACTIVE) - SPONSOR MEMO

BILL NUMBER: S1553B

SPONSOR: MYRIE

TITLE OF BILL:

An act to amend the criminal procedure law, the executive law and the correction law, in relation to automatic sealing of certain convictions

PURPOSE:

This bill gives effect and meaning to the often repeated aphorism that people who have completed their sentences have "paid their debt to society." This bill will address some of the collateral consequences that follow a criminal conviction by requiring the automatic sealing and expungement of specified convictions. This will help to ensure that the continued punishment of those who have "paid their debt to society" will end subject to the conditions, limitations and exceptions set forth in the bill, which are summarized below.

SUMMARY OF PROVISIONS:

Section 1 amends the Criminal Procedure Law by adding a new § 160.57.

§ 160.57. Automatic sealing and expungement of certain convictions.

Applies to certain misdemeanors and felonies subject to certain conditions. Among these conditions are waiting periods for traffic infractions, misdemeanors and felonies. Other conditions require that the defendant not have a pending criminal charge in this state, not currently on probation or parole for the eligible conviction and that the defendant is not currently required to register as a sex offender. The section provides for notification of sealing to the Office of Court Administration, the court of conviction and the heads of all appropriate police and sheriff departments. The section further allows for nine exceptions. The section also sets forth the manner in which various records in the possession of any state agency and third-party agencies shall be expunged, including biometric information, photographs, fingerprints, official records and papers.

The section prohibits the release of expunged records by various entities pursuant to exceptions such as a state or local officer or agency with responsibility for the issuance of licenses to possess guns. Defendants cannot be required or permitted to waive eligibility for sealing or expungement as part of a plea bargain and such waivers are declared void and unenforceable. A defendant claiming to be aggrieved by a violation of the section shall have a cause of action for damages, including punitive damages, and such other remedies as may be appropriate. The Division of Human Rights shall also have powers of enforcement.

§ 2 amends Criminal Procedure Law § 1.20(45) to define the term "To expunge."

§ 3 amends Executive Law § 845-d(3) to include the expungement pursuant to Criminal Procedure Law § 160.57 of criminal history information that is not otherwise authorized by law or that is sealed pursuant to specific section of the Criminal Procedure Law.

§ 4 amends the Executive Law by adding a new subdivision 23 to require the promulgation of a standardized form for use by individuals to notify the Division of Criminal Justice Services of the need to take requisite action for related records.

§ 5 amends Executive Law § 26(16) to make it an unlawful discriminatory practice for any person or entity "to make any inquiry about, whether in any form of application or otherwise, or to act upon adversely to the individual involved, any arrest or criminal accusation of such individual not then pending against that individual which was followed by a termination of that criminal action or proceeding in favor of such individual" in the case of a conviction which is sealed or expunged pursuant to CPL § 160.57 in connection with licensing, housing employment, volunteer positions or providing of credit or insurance to such individual, with certain exceptions, for example in connection with the licensing of firearms or in relation to employment as a police officer.

§ 6 amends section 9 of the correction law as added by section 2 of part 00 of chapter 56 of the laws of 2010 by requiring that an individual's information concerning their conviction that is posted on a website maintained by the department shall remain on such website no longer than three years past the maximum sentence of imprisonment has expired and at the conclusion of parole or post-release supervision.

§ 7 provides that the act shall take effect on 120 days after it shall have become a law.

*JUSTIFICATION:*

*Once an individual's "debt to society" is paid, justice demands that the individual not be punished further in connection with employment, housing, obtaining credit, and many additional areas essential for successful participation in one's community. This Act will provide such individuals with a Clean Slate to move on with their lives and not be punished in perpetuity. It aims to end perpetual punishment by requiring the expungement of certain records subject to a variety of conditions and exceptions, making it illegal and a violation of Human Rights to unlawfully disseminate any information that has been expunged.*

*LEGISLATIVE HISTORY:*

*S8165 of 2020*

*FISCAL IMPLICATIONS:*

*Not yet determined.*

*EFFECTIVE DATE:*

*120 days after it shall have become a law.*